

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863



# W11c

June 23, 1999

TO: Commissioners and Interested Persons

FROM: Tami Grove, Deputy Director  
Lee Otter, District Chief Planner  
Rick Hyman, Coastal Program Analyst

SUBJECT: **SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 3-98.** For public hearing and Commission action at its meeting of July 14, 1999 to be held at Marin County Board of Supervisors Chambers, Civic Center, San Rafael.

---

## SUMMARY OF STAFF REPORT

### I. Description

Santa Cruz County is proposing the following changes to its certified Local Coastal Program:

#### A. Timber Harvest

Amend the Land Use Plan (LUP) and Implementation portion (IP) portion of its Local Coastal Program to:

1. allow timber harvesting (and associated operations) requiring California Department of Forestry approval of a timber harvest plan only in the Timber Production; Parks, Recreation and Open Space; and Mineral Extraction Industrial zone districts (LUP policy 5.12.14; IP sections 13.10.312; 13.10.322; 13.10.332; 13.10.342; 13.10.352; 13.10.362; 13.10.372; 13.10.382; new 13.10.395a);
2. allow timber harvesting by helicopter only in the "Timber Production" zone district under certain criteria (new section 13.10.378);
3. limit timber harvesting in riparian corridors, residential buffer zones, and landslide areas and do not exempt timber harvesting from following riparian corridor rules (IP: new section 13.10.695b, c; 16.30.050).

## **B. Roads**

Change the design criteria for road surfacing in minor ways (IP Section 16.20.180h).

This amendment was filed on December 31, 1998. These two items are part of a larger package. The other components regarding non-conforming use and resources and constraints mapping have been deemed “minor” and approved by the Coastal Commission on March 11, 1999, the date that this matter was continued.

## **II. Standard of Review**

The standard of review for the land use plan amendments is that they must be consistent with the Coastal Act. The standard of review for the implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal land use plan.

## **III. Staff Note**

This LCP amendment submittal involves several timber harvest issues that the Commission has previously expressed interest in reviewing in a public workshop. Unfortunately, resources have not been available for staff to prepare for such a workshop prior to processing this particular amendment. Staff will continue to seek means to conduct a timber harvest workshop sometime in the future.

## **IV. Staff Recommendation**

Staff recommends that the Commission **approve, only if modified**, the proposed amendment as it relates to timber harvesting. The primary purpose of this amendment is to restrict timber harvesting to three zoning districts: TP Timber Production, PR Parks, Recreation and Open Space, and M-3 Mining. The County has proposed the amendment in response to a recent California Appellate court case that affirmed that local governments have authority to determine appropriate locations for timber harvesting.

In the coastal zone, the proposed restriction of timber harvesting to three zoning districts means that some lands that have timber resources will not be allowed to be logged, unless there is a zoning change to a district that allows timber harvesting, such as TP. Staff's concern with this amendment is that the existing criteria for such rezonings are unclear in the land use plan, and that this could result in rezonings that are inappropriate under Coastal Act policies, particularly those concerning recreational and visual resources, environmentally sensitive habitat, and lands subject to geological hazards. Staff is further concerned that the amendment would allow for inappropriate logging in Parks, Recreation, and Open Space and Resource Conservation areas where the intent is to reserve these areas for recreational and other compatible low-intensity uses or conservation uses, respectively. Finally, staff has identified two activities --helicopter logging and logging on

landslides -- where the proposed amendment is regulatory in nature and not clearly implementing land use plan policies. Table 1 summarizes these issues and staff's recommended modifications.

Another part of the submittal addresses roads. The proposed revisions, however, do not relate to timber roads. The amendments simply repeat land use plan policies and promote fire protection and erosion control. They are recommended for approval.



**TABLE 1: Santa Cruz County Timber Harvesting Amendment Issues and Proposed Modifications**

Existing Policy	Proposed Amendment	As Modified
<b>LAND USE PLAN</b>		
Six land use plan designations in the coastal zone have timber resources: Parks Recreation and Open Space; Mountain Residential; Agriculture; Resource Conservation; Public Facilities; Rural Residential. There is no “Timber Resource” or “Timber Production” land use designation.	UNCHANGED	UNCHANGED
There is no explicit policy on whether Timber Production is an appropriate use in these land use designations except for the Agriculture designation, where it is discretionary (Policy 5. 13.4).	UNCHANGED	Specify that timber harvesting in recreational, visually or environmentally sensitive areas, or in areas susceptible to hazards, is not appropriate if logging will harm the resource values of these areas. (Mod A)
LUP Objective 5.12 encourages sustainable forestry under high environmental standards, protection of the scenic and ecological values of forested areas, and orderly timber production consistent with the least possible environmental impacts.	UNCHANGED	UNCHANGED
LUP Policy 5.12.9 encourages rezoning to Timber Production “where appropriate.” No LUP policy specifies what is appropriate.	UNCHANGED	Specify that timber harvesting in recreational, visually or environmentally sensitive areas, or in areas susceptible to hazards, is not appropriate if logging will harm the resource values of these areas. (Mod A)
LUP Policy 5.12.2 allows for timber harvesting in the TP Timber Production zone district	Adds Policy 5.12.14 that allows timber harvesting only in 3 zoning districts: TP, M-3, PR.	Prohibit timber harvesting in PR zone in coastal zone (Mod B-1)

Existing Policy	Proposed Amendment	As Modified
<b>ZONING</b>		
Timber harvesting is an allowable use in the TP Timber Production, PR Parks and Recreation, SU Special Use, M-1, M-2, and M-3 Industrial zones; small scale harvesting is allowed in RR and R-A zones.	Limits timber harvesting to 3 zones: TP, M-3, PR	Add prohibition of timber harvesting in PR zone in coastal zone (Mod B-3)
Section 13.10.170d allows rezoning of land to Timber Production in six different designations and two mapped resource areas without LCP amendment.	UNCHANGED	Eliminate TP as allowable zone for Park or Resource Conservation designations.  Other zoning changes to Timber Production need LCP amendments (B-2).
Helicopter logging not addressed in zoning	Restricts helicopter logging	Do not restrict (Mod C).
Timber harvesting exempt from riparian corridor protective policies.	Timber harvesting not exempt from riparian corridor protective policies.	Clarify non-commercial harvesting may be permitted in riparian corridors (Mod D)
Logging on landslide areas not directly addressed in zoning	Prohibits logging on landslide areas meeting certain criteria (see findings for detail)	Do not prohibit (Mod D).

### **Summary Of Issues And Comments**

At the County hearings, the proposed timber harvest amendments elicited substantial comments. The amendments approved generally elicited favorable reaction from neighborhood and environmental groups and unfavorable reaction from those who conduct timber harvests and/or own timberland. In response, the County noted that most of the timber land remains zoned for timber harvesting, amendments to a zone that allows timber harvesting are possible for other properties, and that the proposal addresses environmental and neighborhood concerns with logging. Much of the testimony was focused on matters not in the Commission's purview, such as concurrent changes that the County was recommending to the Forest Practices Rules, the effects of the proposals outside of the coastal zone, and on earlier amendment proposals that were not finally adopted by the Board of Supervisors.

This matter was continued from the Commission March 11, 1999 hearing after testimony was taken. At the hearing Commissioners raised the following concerns:

**1. How much land is involved?** The answer to this question depends on what is at issue. Within Santa Cruz County's Coastal Zone the exact amount of forested land is unknown. It is at least 21,608 acres which is shown as "Timber Resource" on somewhat outdated County maps, according to Coastal Commission staff calculations (which match fairly closely the County's totaling of 21,355 acres using their GIS). Timber-cutting proponents claimed the amount should be 7,500 acres more and submitted their own maps. Staff evaluated several of these polygons against color aerial photography with the zoom transfer scope and found them to include significant errors. These were not minor delineation problems, but included deficiencies such as showing Highway 1 pavement area and the face of the adjacent Waddell Bluffs as additional timberland. It would take considerable time to analyze each and every red polygon area. They would all have to be examined individually using the zoom transfer scope. Thus, the figure is somewhere in between 21,608 and 29,108 acres.

These totals do not include forested lands in Big Basin State Park. They do include some forested land in Wilder Ranch and Gray Whale Ranch State Parks because these areas were not parklands when the original resource inventories were compiled in the early 1970's.

What is at issue from staff's perspective is the amount of timberland where timbering would no longer be allowed (i.e., compared to where it is allowed now). Pursuant to the County submittal this is land zoned "SU," about 290 acres of which in the coastal zone was mapped "timber resource." According to timber interests, the amount of "SU" zoned land in the Coastal Zone that has timber is another 1,300 acres or so. Also, at issue would be land zoned "PR," pursuant to the recommended modification to delete logging as a permitted use in that district as well. Although "PR" is generally reserved for public lands or private lands used for recreational purposes, testimony was presented by one landowner with timber on his property that was zoned "PR." There appears to be only 25 acres of private PR zoned land with mapped timber resources. One must understand

that landowners of "SU" or "PR" zoned land can request a rezoning to "TP," which would then allow logging to occur. How much of this land is suitable for rezoning is unknown, as evaluation would have to occur on a case-by-base in concert with suggested modifications to ensure against inappropriate rezonings where coastal resources are involved.

Regarding the proposed riparian setback, the County has indicated that 1,601 acres in the Coastal Zone are affected.

## **2. What does the State Board of Forestry think of the County's proposal?**

Enclosed is correspondence from the Department of Forestry and Fire Protection taking issue with the riparian buffer portion of the amendment which they view as regulatory in nature (see Attached Correspondence). Additionally, Commission staff will forward this report to the Department with a cover letter requesting any further comments.

As background to understanding various agency authorities, two types must be considered: planning and regulatory. Regarding planning, under State General Plan law and the Coastal Act, local governments must designate land uses in the general plan and zoning ordinance.<sup>1</sup> Regarding timber lands, Section 30243 must be considered in this planning ("long-term productivity of soils and timberlands shall be protected"), along with all other governing policies of the Coastal Act. Further specific zoning guidance is provided in the Timberland Productivity Act of 1982.<sup>2</sup> This statute strongly encourages the identification and placement of timber land into the "Timber Production" zone district, but leaves the individual designations and re-zoning to the discretion of local planning authorities. The local government takes these all into consideration as well as other factors in determining what land uses to allow where. The Coastal Commission must find the resulting land use plan and zoning consistent with

---

<sup>1</sup> The LCPs prepared pursuant to the requirements laid out in the Coastal Act include Land Use Plans "sufficiently detailed to show the kinds, locations and intensity of land uses" (PRC 30108.5) and "zoning ordinances....which, when taken together with [the land use plan] implement the policies and provisions of this division at the local level" (PRC 30108.6).

<sup>2</sup> This law (Government Code Section 51101 et seq.) is primarily directed towards encouraging counties to identify timber resources and zone land which contains commercial timber resources to the "Timber Production" Zone District. The statute requires all County Assessors in the state to prepare a list of properties that were, or, in the opinion of the Assessor, should be, assessed as timber production lands as their "highest and best" use. (Government Code Sections 51110 and 51110.1). The Act then lays out a mandatory re-zoning process which must be undertaken by counties where timber production properties have been identified. (Gov. Code Section 51112). The clear preference of the statute is that all timber production land will be zoned into the "Timber Production" zone, although the discretion to place land in this zone district is left up to the individual counties. Once zoned into the "Timber Production" zone district, the statute provides that "The growing and harvesting on those parcels shall be regulated solely pursuant to state statutes and regulations" i.e. The Forest Practice Act. (Government Code Section 51115.1) According to the Timberland Productivity Act, (Government Code Section 51114) the "Timber Production" zone district functions in many ways like a Williamson Contract for farmland. That is, land in the "Timber Production" zone remains in the district for a minimum of ten years and the initial time period "rolls over" every year unless the property is rezoned, thus any rezoning to a new zone district will not usually be effective for ten years. Also similar to a Williamson Contract, there is a very limited ability to obtain an immediate rezoning to another zone district.



the Coastal Act. A recent court case has affirmed the right of local governments to determine where timber harvesting is appropriate.<sup>3</sup> To date the Department of Forestry and Fire Protection has accepted these decisions; i.e., it will not approve a Timber Harvest Plan for an area not zoned to allow timber harvesting.

Regarding regulation, the Forest Practice Act specifically gives the California Department of Forestry and Fire Protection (CDF) rather than local jurisdictions, authority to regulate commercial timber operations through the review of Timber Harvest Plans (PRC Section 4516.5.d).<sup>4</sup> A recent court case upholds this regulatory authority.<sup>5</sup> The Coastal Act (and in this case the Santa Cruz County Local Coastal

---

<sup>3</sup> This case, Big Creek Lumber Company v. County of San Mateo (1995) 31 Cal. App 4<sup>th</sup> at 418, found that a zoning regulation which provided for a 1000' buffer between timber operations and residences located on land outside the "Timber Production" zone was not in conflict with the Forest Practice Act. In its decision, the Court distinguished between regulations which directed *how* timber harvesting would be accomplished and those which were simply identifying *where* the land use of timber harvesting could take place. The Court opined that regulations directed to the *conduct* of timber operations were inconsistent with the Forest Practice Act because the Act gave CDF sole authority to review and approve the permits for this activity through the Timber Harvest Plan process. The Court found however, that the zoning criteria added by San Mateo County was permissible because it only addressed a *locational* issue (i.e. where timber harvesting could and could not occur) pursuant to the county's general authority to plan for land uses.

<sup>4</sup> "Timber operations" means the cutting or removal or both of timber or other solid wood forest products, including Christmas Trees, from timberlands for commercial purposes, together with all the work incidental thereto, including, but not limited to construction and maintenance of roads, fuel breaks, fire breaks, stream crossings, landings, skid trails, beds for the falling of trees, fire hazard abatement and site preparation that involves disturbance of soil or burning of vegetation following timber harvesting activities conducted after January 1, 1988, but, excluding preparatory work such as tree marking, surveying or road flagging. "Commercial purposes" includes (1) the cutting or removal of trees which are processed into logs, lumber or other wood products and offered for sale, barter, exchange or trade, or (2) the cutting or removal of trees or other forest products during the conversion of timberlands to other land uses other than the growing of timber which are subject to the provisions of Section 4621, including, but not limited to, residential or commercial developments, production of other agricultural crops, recreational developments, ski developments, water development projects and transportation projects. Removal or harvest of incidental vegetation from timberlands, such as berries, ferns, greenery, mistletoe, herbs and other products, which action cannot normally be expected to result in threat to forest, air, water or soil resources, does not constitute timber operations.

<sup>5</sup> This case (Westhaven Community Development Council v. County of Humboldt, (1998) 61 Cal. App.4<sup>th</sup> at 365), the Court denied the plaintiffs' request to issue an injunction preventing logging, subject to a CDF approved Timber Harvest Plan, unless and until a use permit for the activity was obtained from Humboldt County. The Court opined that even though the County Zoning Ordinance stated that a use permit was required for commercial timber harvests, the requirement could not be enforced because the Forest Practice Act pre-empted application of zoning regulations "to the extent those regulations required a permit for timber operations on a land area of three or more acres." The Court distinguished the ruling in their case from that made in the Big Creek case as follows "that decision {the Big Creek decision} did not address, consider or resolve any issues relating to local permitting requirements, because the county ordinance at issue in Big Creek Lumber Co. did not create a permit requirement....The Big Creek Lumber Co. draws a distinction between local attempts to regulate the conduct of timber operations, the first type prohibited by Section 4516.5 (d) and local efforts to regulate the location of timber operations" The Court thus affirmed the earlier decision in Big Creek "that the Forest Practice Act does not preempt local efforts to regulate the location of timber harvesting."

Program) is consistent with this rule, by exempting from the definition of “development” and, hence, coastal permit regulatory authority, “timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). In the absence of having regulatory authority, local governments can comment on and participate in the Department of Forestry and Fire Protection’s review of Timber Harvest Plans and can appeal such decisions to the Board of Forestry. Thus, the function of any regulatory-like provisions that local governments have in their local coastal programs is limited to being a basis on which to make comments and appeals and a basis to make decisions on any timber harvesting that may not come under the Department’s purview.

**3. If land is already designated “TP,” can the County then impose a riparian buffer restriction?** There is a process established in the Timberland Productivity Act (and referenced in the County Code) for rezoning out of “TP.” In the absence of such rezoning, the County will have the ability to request the Board of Forestry to respect its desire for a no-cut riparian buffer zone. The proposed amendment includes such a riparian buffer provision but it does not grant the County any unilateral regulatory authority to impose it. Correspondence from the Department indicates that they are not respecting this request (see Attachment).

This ordinance provision for a riparian buffer has been challenged in court. County counsel has submitted a letter indicating why it believes that the amendment is legal. It will be up to a court to rule on this matter. Staff does not take, and recommends that the Commission not take, a position on this matter. The question under review herein is simply evaluating the proposal from a Coastal Act perspective.

**4. Should the amendment have required an EIR?** An EIR is not necessary in order for the amendment to be submitted to the Coastal Commission. Under CEQA Guidelines Section 15050 the County’s decision to prepare a Negative Declaration is binding on the Commission, as a responsible agency. Since this decision has been challenged, it will be up to a court to determine if an EIR was required pursuant to the California Environmental Quality Act.

Following are some of the concerns(in bold) that members of the public voiced, along with the staff response:

**1. Timber is an agricultural activity.** Just because land is designated for agricultural use, the County has the ability to determine specific categories of agricultural uses which it wishes to allow and which not to allow.

**2. Landowners can not rezone to TP land that is not designated “timber resource.”** To rezone to TP requires specific criteria of harvestable wood on the property (under State Law and referenced in the *County Code*). Land automatically becomes “Timber Resource” even if not previously mapped, if so rezoned by meeting

these criteria (pursuant to *General Plan* Figure 1-7" new information acceptable for updating maps"). The County has been processing requests to rezone to TP.

### **Additional Information**

For further information about this report or the amendment process, please contact Rick Hyman or Lee Otter, Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 95060; Tel. (831) 427-4863.

## **TABLE OF CONTENTS**

<b>I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS.....</b>	<b>12</b>
<b>II. SUGGESTED MODIFICATIONS.....</b>	<b>15</b>
<b>III. RECOMMENDED FINDINGS.....</b>	<b>18</b>
<b>A. TIMBER HARVEST .....</b>	<b>18</b>
<b>1. <i>Limitation on Location of Timber Harvesting</i>.....</b>	<b>18</b>
<b>2. <i>Helicopter Timber Harvesting</i>.....</b>	<b>32</b>
<b>3. <i>Riparian Corridor, Residential Buffer, and Landslide Limitations</i> .....</b>	<b>34</b>
<b>B. ROADS: CHANGE DESIGN CRITERIA FOR ROADS .....</b>	<b>42</b>
<b>C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) .....</b>	<b>43</b>

### **ATTACHMENTS**

Full Text Of Proposed Amendments  
Correspondence

---

**I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS**

**MOTIONS AND RESOLUTIONS**

The Commission needs to make five separate motions in order to act on this recommendation:

**A. DENIAL OF LAND USE PLAN MAJOR AMENDMENT #3-98 PART A AS SUBMITTED**

**MOTION 1:**

*“I move that the Commission certify Major Amendment # 3-98 part A to the County of Santa Cruz Land Use Plan as submitted by the County.”*

Staff recommends a “**NO**” vote. An affirmative vote by a majority of the appointed commissioners is needed to pass the motion.

**RESOLUTION:**

The Commission hereby **rejects** Major Amendment # 3-98 *part A* to the land use plan of the County of Santa Cruz as submitted for the specific reasons discussed in the recommended findings on the grounds that, as submitted, it does not meet the requirements of Chapter 3 of the Coastal Act. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment.

**B. APPROVAL OF LAND USE PLAN MAJOR AMENDMENT #3-98 PART A, IF MODIFIED**

**MOTION 2:**

*“I move that the Commission certify Major Amendment # 3-98 Part A to the County of Santa Cruz Land Use Plan as submitted by the County, if modified according to Modifications A-1 and B-1.”*

Staff recommends a “**YES**” vote. An affirmative vote by a majority of the appointed commissioners is needed to pass the motion.

**RESOLUTION:**

The Commission hereby **approves** Major Amendment # 3-98 Part A to the land use plan of the County of Santa Cruz as submitted for the specific reasons

discussed in the recommended findings on the grounds that, as modified according to Modifications A-1 and B-1, it meets the requirements of Chapter 3 of the Coastal Act. There are no feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment.

#### **C. DENIAL OF IMPLEMENTATION PLAN MAJOR AMENDMENT #3-98 PART A AS SUBMITTED**

##### **MOTION 3:**

*"I move that the Commission **reject** Major Amendment #3-98 Part A to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by the County."*

Staff recommends a "YES" vote which would result in **denial** of this amendment as submitted. Only an affirmative (yes) vote on the motion by a majority of the Commissioners present can result in rejection of the amendment (otherwise the amendment is approved as submitted).

##### **RESOLUTION:**

The Commission hereby **rejects** Major Amendment #3-98 Part A to the implementation plan of the Santa Cruz County local coastal program, as submitted, for the specific reasons discussed in the following findings, on the grounds that the amendment is not consistent with and not adequate to carry out the certified land use plan and exceeds the County's legal authority and hence the Commission's ability to approve.

#### **D. APPROVAL OF IMPLEMENTATION PLAN MAJOR AMENDMENT #3-98 PART A, IF MODIFIED**

##### **MOTION 4:**

*"I move that the Commission **approve** Major Amendment #3-98 Part A to the Santa Cruz County Local Coastal Program Implementation Plan, if it is modified according to Suggested Modifications A-2, B-2 &-3, C, D."*

Staff recommends a "YES" vote which would result in **approval** of this amendment if modified. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

**RESOLUTION:**

The Commission hereby **approves** Major Amendment #3-98 Part A to the Implementation Plan of the Santa Cruz County Local Coastal Program, for the specific reasons discussed in the following findings, on the grounds that, as modified by Suggested Modifications A-2, B-2, B-3, C & D, the amendment conforms with and is adequate to carry out the certified land use plan. Approval of the amendment will not cause significant adverse environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

**E. APPROVAL OF IMPLEMENTATION PLAN MAJOR AMENDMENT #3-98 PART B, AS SUBMITTED****MOTION 5:**

*"I move that the Commission **reject** Major Amendment #3-98 Part B to the Santa Cruz County Local Coastal Program Implementation Plan, as submitted by Santa Cruz County.*

Staff recommends a "NO" vote which would result in **approval** of this amendment as submitted. An affirmative vote by a majority of the Commissioners present is needed to pass the motion; and since the motion is written in the negative, if it fails then the amendment is approved.

**RESOLUTION:**

The Commission hereby **approves** Major Amendment #3-98 Part B to the Implementation Plan of the Santa Cruz County Local Coastal Program, as submitted, for the specific reasons discussed in the following findings, on the grounds that the amendment conforms with and is adequate to carry out the certified land use plan. Approval of the amendment will not cause significant adverse environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

## II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments, which are necessary to make the requisite findings. If the local government accepts each of the suggested modifications within six months of Commission action, by formal resolution of the Board of Supervisors, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

### A. Rezoning Lands to Timber Production

1. *Revise 1994 General Plan and Local Coastal Program for the County of Santa Cruz policy 5.12.9 by adding the underlined wording:*

Encourage timberland owners to apply for Timber Production zoning where appropriate. In the Coastal Zone it is not appropriate to zone timberland for timber production if the land is recreational, environmentally sensitive, or visible from rural scenic roads (pursuant to policy 5.10.3) and if logging will harm these resource values. For purposes of this policy, harmful activities shall be considered as those including any significant disruption of environmentally sensitive habitat, any loss of landmark old growth trees, any degradation of scenic public views, any significant loss of timberland soils or siltation of spawning gravels. Also, it is not appropriate to zone timberland for timber production if the land is susceptible to a hazard that may be exacerbated by logging and not responsive to mitigation. Such rezonings must be in accordance with the procedures set forth in the TP ordinance.

*and revise last sentence of policy 5.12.8 to be consistent with and reference this revision as follows:*

...Require, as a condition of any land division, rezoning to TP for parcels which have equivalent timber resources and that meet the criteria of policy 5.12.9.

2. *Add to County Code Section 13.10.375(c) the following new underlined subsections:*

7. The land shall not be recreational, environmentally sensitive, nor visible from rural scenic roads (pursuant to policy 5.10.11) where logging will harm these resource values. For purposes of this policy, harmful activities shall be considered as those including any significant disruption of environmentally sensitive habitat, any loss of landmark old growth trees, any degradation of scenic public views, any significant loss of timberland soils or siltation of spawning gravels.

8. The land shall not be susceptible to a hazard that may be exacerbated by logging and not responsive to mitigation.

### B Zoning Districts Where Timber Harvesting is Allowed

1. *Revise proposed new 1994 General Plan and Local Coastal Program for the County of Santa Cruz policy 5.12.14 (LCP) by deleting the wording “Parks, Recreation and Open Space (PR),” or by adding the underlined wording:*

Allow timber harvesting and associated operations, requiring approval of a Timber Harvesting Plan by the California Department of Forestry, only in the Timber Production (TP), Parks, Recreation and Open Space (PR) (except in the coastal zone), and Mineral Extraction Industrial (M-3) zone districts.

2. *Revise Section 13.10.170(d) of the County Code “Consistent Zone Districts” 3 by adding the underlined wording:*

. . . Rezoning of a property to a zone district which is shown in the following Zone Implementation Table as implementing the designation applicable to the property, shall not constitute an amendment of the Local Coastal Program, unless it involves rezoning to “TP” or “M-3” in the coastal zone.

<b>General Plan/Local Coastal Program Land Use Designation</b>	<b>Zone District pursuant to Section 13.10.300 et seq. And Section 13.10.400 et seq.</b>
<b>Open Space Uses:</b>	
-O-R Parks, Recreation and Open Space	PR –Parks, Recreation and Open Space PF –Public Facilities TP—Timber Production, <u>outside of the Coastal zone only.</u>
-O-C Resource Conservation	PR –Parks, Recreation and Open Space PF –Public Facilities TP—Timber Production, <u>outside of the Coastal zone only.</u> A- Agriculture CA- Commercial Agriculture
<b>General Plan/Local Coastal Program Resource</b>	
-Agricultural Resource Lands	AP-Agricultural Preserve Zone District A-P-Agriculture with Agricultural Preserve Combining Zone District CA-Commercial Agriculture TP-Timber Production ( <u>except for Coastal zone lands designated Parks or Resource Conservation</u> )
-Timber Resource Lands	TP-Timber Production ( <u>except for</u>



Coastal zone lands designated Parks  
or Resource Conservation)

3. *Revise Subsection (b) of Section 13.10.352 - Timber Harvesting- of the Parks, Recreation and Open Space Uses Chart of the County Code by adding the underlined wording:*

“PR USES CHART”

USE	PR
<hr/>	
Timber Harvesting, <u>outside of the coastal zone</u> subject to Section 13.10.695.	P

**C. Timber Harvest Related Helicopter Operations**

*Delete proposed Section 13.10.378 and associated references or revise proposed Section. 13.10.378 as by adding the underlined wording and deleting the wording with strikethroughs:*

(a) Helicopter yarding of timber shall only be permitted for timber harvested from properties zoned TP or zoned another zone district where timber harvesting is an allowed use. Appurtenant helicopter service and log landing areas must be sited within the Timber Harvest ~~Permit~~ Plan (THP) boundaries on property which is either zoned TP or is zoned on another zone district where timber harvesting is an allowed use.

(b) Where environmental review or other resource protection evaluation concludes that the following measures are advisable, the County will communicate such recommendations to the appropriate authorities:

- limit ~~h~~ Helicopter flights for log transport between the area where the felling is occurring and the landing ~~must~~ to occur only over property contained within the approved THP.

~~(b)~~ -No helicopter flight ~~may occur~~ within 1,000 feet horizontally of an inhabited residence.

**D. Locational Criteria for Timber Harvesting**

*Revise proposed Section. 13.10.695 by adding the underlined wording and deleting the wording with ~~strikethroughs~~:*

(a) Timber harvesting requiring approval of a Timber Harvesting Plan by the California Department of Forestry is allowed, in addition to the TP zone, only in those zone districts which specifically list timber harvesting as an allowed use.

(b) Within those zone districts (except the TP zone), commercial timber harvesting shall not occur within the following areas:

1) riparian corridors, defined as:

- i) 50-feet from the bank full flow line of a perennial stream
- ii) 30-feet from the bank full flow line of an intermittent or ephemeral stream

2) a residential buffer, measuring 300-feet from the exterior walls of any residential dwelling located on adjacent properties not zoned TP.

~~3) in areas identified as active or recent landslides, as determined by a registered Geologist or Engineering Geologist, based on the most current mapping, photo interpretation, and/or surface observation.~~

(c) Within the TP zone district, commercial timber harvesting shall not occur within riparian corridors, defined as:

- i) 50-feet from the bank full flow line of a perennial stream
- ii) 30-feet from the bank full flow line of an intermittent or ephemeral stream

**III. RECOMMENDED FINDINGS**

The Commission finds and declares for the following parts A and B of Santa Cruz County Major Amendment # 3-98 regarding timber harvest and roads:

**A. TIMBER HARVEST**

The County has proposed amendments to the Land Use Plan and implementation plan of the local coastal program involving three aspects of timber harvesting: 1. limitations on locations of harvest, 2. helicopter harvesting restrictions, and 3. riparian corridors, residential buffers, and landslide areas.

***1. Limitation on Location of Timber Harvesting***

This amendment has both a land use plan component and a zoning component. Since the standards of review are different, each is discussed separately.

## a. Land Use Plan Amendment

### (1.) Description and Background

The proposed amendment mostly concerns the appropriate locations for timber harvesting regulated by the California Department of Forestry. Currently, the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* (LCP) contains a broad objective to promote sustainable forestry. Objective 5.12 states:

To encourage the orderly economic production of forest products on a sustained yield basis under high environmental standards, to protect the scenic and ecological values of forested areas, and to allow orderly timber production consistent with the least possible environmental impacts.

The certified Local Coastal Program land use plan map contains six land use designations in the coastal zone that have timber resources: Parks Recreation and Open Space; Mountain Residential; Agriculture; Resource Conservation; Public Facilities; Rural Residential. These are found in the North Coast and Bonny Doon planning areas. There is no “Timber Resource” nor “Timber Production” land use designation. Nor is there any explicit discussion in the LCP about whether timber harvesting is an appropriate use in the land designations where timber resources occur, except for the “Agriculture” category. In “Agriculture” areas timber resource land can be zoned “TP” according to plan policy 5.13.4.<sup>6</sup> In the other designations, objectives are limited to the primary purposes of the designations. For example, in the two residential designations, the objectives are limited to providing for low density residential development and retaining rural character (objectives 2.4 and 2.5).<sup>7</sup>

The County does have a separate timber resource map that is referenced in the LCP, although its status relative to the land use designations and zoning districts of the LCP is not entirely clear. LCP Policy 5.12.9 encourages (re)zoning of land that is mapped as timber resource to the “Timber Production” zoning district **“where appropriate”** (emphasis added), and policy 5.12.2 states that timber harvesting is a principal use in that district. For timber resource land over 20 gross acres in size not zoned “TP,” land divisions and residential development are to be evaluated for timber resource potential. Timber resources are to be protected and the parcel rezoned to “TP” as part of any land division approval (policy

---

<sup>6</sup> If it is not so zoned, then generally it is zoned “Commercial Agriculture (CA)” and used for commercial cultivation of plant crops and raising of animals. (Policy 5.13.5).

<sup>7</sup> Similarly, In the Parks, Recreation, and Open Space areas, “low intensity uses which are compatible with the scenic values and natural setting of the county for open space lands which are not developable” and “commercial recreation, County, State and Federal parks, preserves, and biotic research stations, local parks and passive open space uses for park lands which are developable” are allowed (policy 7.1.3). The “Resource Conservation” designation is for public or private lands held for conservation purposes (policy 5.11.5). The only such land in the coastal zone which has timber is a Fish and Game ecological reserve. The “Public Facilities” designation is for public and quasi public facilities, public facility support facilities, and institutions (policy 2.21.1). The only “Public Facility” designation in the coastal zone with possible timber resources is on the University of California, Santa Cruz campus. One area is protected environmental reserve land and the other is undeveloped “resource” land.

5.12.8). Beyond this, there is no specific policy that states that all mapped timber resource land should be zoned “TP” or alternatively that it should be logged.<sup>8</sup>

This proposed amendment to the coastal land use plan, the *1994 General Plan and Local Coastal Program for the County of Santa Cruz*, would add new policy 5.12.14. This would allow timber harvesting that is regulated by the Department of Forestry through Timber Harvest Plans only in the Timber Production, Parks, Recreation and Open Space, and Mineral Extraction Industrial zone districts. State-approved timber harvest plans are required for most timbering operations except for the following:

- harvesting Christmas trees;
- harvesting dead, dying or diseased trees of any size and small amounts (less than 10 percent of the average volume per acre under certain conditions) of fuelwood or split products;
- operations conducted on ownerships of timberland of less than 3 acres (1.214 ha) in size and not part of a larger parcel of timberland in the same ownership;
- and certain cutting or removal of trees which eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuelbreak to reduce fire spread, duration, and intensity.

These types of operations would be governed by other local coastal program policies and are not affected by this amendment (except with regard to residential zoning as discussed below). The County is offering this amendment as a follow-up to a court case that states that while local governments can not regulate the conduct of timber cutting operation, they can use their planning authority to determine **where** it may occur (*Big Creek Lumber v. County of San Mateo*, 31 Cal. App. 4th at 418, (1995)).

## **(2.) Standard of Review**

The standard of review for land use plan amendments is the Coastal Act. Under the Act, land use plans are to indicate the kinds, locations, and intensities of uses that are allowable in various locations (PRC 30108.5). The substantive policies of Chapter 3 are the primary basis for making these determinations. In this case, the most relevant governing sections of the Coastal Act are:

**30223**    Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

---

<sup>8</sup> These maps can be updated upon rezoning of land in or out of a “TP Timber Production” zoning district, without constituting a local coastal program amendment (figure 1-7). Otherwise, if new information were presented showing timber resources outside of the currently mapped areas and not designated “TP,” the County would have the option of updating the mapping through an amendment of its *1994 General Plan and Local Coastal Program for the County of Santa Cruz*. “TP” zoning generally applies to parcels capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre pursuant to State law and County policy.

**30240(a)** Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

**30243** The long-term productivity of soils and timberlands shall be protected, and conversions of coastal commercial timberlands in units of commercial size to other uses or their division into units of noncommercial size shall be limited to providing for necessary timber processing and related facilities.

**30251** The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

**30253** New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Additionally, Coastal Act section 30001.5(c) states, as a basic goal, "Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state."

### **(3.) Analysis**

The Commission must determine whether the land use plan with the proposed amendment is consistent with the Coastal Act. As submitted by the County, the

amended land use plan would not clearly define where timber harvesting is allowed and, therefore, consistency with the various policies of Chapter 3 of the Coastal Act is not guaranteed. As mentioned, a land use plan should indicate kinds, locations, and intensities of uses (PRC 30108.5). Typically, this is achieved through a series of land use designations, each for a different use or group of uses. Unfortunately, Santa Cruz County does not have a designation for timber harvesting. Complicating matters, there are six designations in the Coastal Zone where timber harvesting could potentially occur (see first column of table above). A review of the land use plan provisions regarding purposes and uses of the designations alone (see above) reveals that timber harvesting is only explicitly shown as appropriate in agricultural areas. One is left to interpret how separate policies favoring timber harvesting (in Section 5.12) are to be implemented in other areas. The proposed amendment only serves to perpetuate this ambiguity by addressing only zoning districts, not the land use designations, where timber harvesting is allowed. The proposed new policy does not alter any land use plan policies or designations. Nor does it change which zoning districts are appropriate for implementing which land use designations. It simply states the districts where timber harvesting is permitted: TP, PR, and M-3. In effect, the only guidance in the LCP as to the appropriate location of timber harvesting is Policy 5.12.9, which encourages rezoning of timberlands to timber production “where appropriate.” Under this approach, there is no guarantee that timber harvesting would not be deemed appropriate in locations that might conflict with Coastal Act policies concerning environmentally sensitive habitat, visual resources, recreational lands, and lands where geological hazards are a concern. This is inconsistent with these respective policies (Sections 30233, 30240, 30251, 30253). The specific analysis of each proposed zoning district restriction is summarized below.

- **“TP” Zoning:** The land use plan already has provisions sanctioning TP zoning where timber harvesting is allowed. Thus, the part of the proposed amendment that says that timber harvesting is allowed in the TP zone district is redundant. It does not give guidance as to where the TP zoning may apply in the future. It thus perpetuates the non-definitive direction of land use plan policy 5.12.9. As proposed for amendment, the land use plan will lack an explicit policy that addresses timberlands and clarifies the cited objective; i.e., which of the timberlands (which may or not be included on the County Resource Maps) are suitable to be rezoned to “TP” and hence suitable to be logged. Lacking such language, one possible interpretation is that any such lands, no matter what resource constraints they pose, are suitable. Thus, the proposed amendment could lead to rezonings and, hence, timber harvesting that is in clearly inappropriate locations from a Coastal Act perspective. Therefore, this amendment must be denied, because the resulting land use plan would be inconsistent with the Coastal Act.
- **“PR” Zoning:** The land use plan does not have a policy that addresses PR zoning. However, cited policy 7.1.3 specifies which uses are allowed in the Parks, Recreation, and Open Space designation on the land use map. The implication is that PR zoning is the district that implements the identically-named land use plan designation. Policy 7.1.3 does not say anything about allowing timber harvesting. In

fact such a use would conflict with the list of the allowed uses, the purpose of the designation, and hence Coastal Act policy 30223. All PR lands in the coastal zone of Santa Cruz County are within State Park units, nature reserves or similar protected areas. Timber harvesting would conflict with, be disruptive to, and is fundamentally incompatible with the basic natural resource protection purposes of these areas. Thus, the proposed amendment, which would allow for timber harvesting in the PR district is inconsistent with the Coastal Act and must be denied.

- **“M-3” Zoning:** The land use plan does not have a policy that addresses M-3 zoning. That zone applies to mines. Section 2.19 of the *1994 General Plan and Local Coastal Program for the County of Santa Cruz*, provides for heavy industrial and quarry operations. There are two sites designated with a “Q” quarry overlay symbol (Lonestar Shale and Limestone) in the coastal zone that have timber resources on them (the underlying land use plan designation is “Mountain Residential.” They are not zoned “M-3.” A zoning designation of M-3 implies sanctioning a disruption of the natural environment that would require removal of tree cover to function. Therefore, saying that timber harvesting is an allowed use in such a zoning district is acceptable.

#### 4. Remedies

It would have been preferable for the County to structure the proposed amendment differently, at least as it affects the coastal zone, in order to provide clarity. Under the Coastal Act, the land use plan is to give general indications of locations, intensity, and kinds of permitted uses. The zoning then provides the details consistent with the land use plan directive. This would suggest a three-step process with regard to timber harvesting:

1. Ensure that the timber resource maps were up to date, using aerial photography and possibly other information;
2. Decide appropriate locations for timber harvesting based on Coastal Act criteria and then other local objectives that did not conflict, in line with the recent Big Creek court case. For example, answer such questions as: is timber harvesting appropriate only in lands which are zoned TP? Are there sensitive areas, such as environmentally sensitive habitat, or visually sensitive lands, where timber harvesting should not be allowed?
3. Ensure that the land use plan was internally consistent with and appropriately incorporated into these locational decisions. This step would involve comparing the (revised) timber resource map with the land use plan map. For each designation where timber resources occur, the plan should make clear whether timber harvesting is an allowed use based on the previous step. For example, if there remained designated “Mountain Residential” and “Rural Residential” areas where timber harvesting was desired, the “purpose” sections of the designations could be restated to add timber harvesting as being suitable. Or, alternatively,

such areas could be reclassified to a designation where timber harvesting was said to be suitable.

In the absence of such an exercise, though, the inconsistencies of the submitted amendment may be addressed by adding overriding policy language that dictates where timber harvesting is suitable. This could be accomplished by adding criteria to existing policy 5.12.9 to replace the vague “where appropriate” language. Such criteria should follow Coastal Act considerations as outlined above and are shown in **Suggested Modification A-1**. A companion change needs to be made to the previous policy regarding “Timber Resource Land Not Zoned Timber Production” for consistency, as also shown in Suggested Modification A-1. That policy now requires a rezoning to “TP” if there is any approved land division on such lands. However, if under the modification to policy 5.12.9, timber harvesting is inappropriate, then this rezoning should not occur.

Additionally, the reference to allowing timber harvesting in “PR” zones needs to be deleted as shown in Suggested Modification B, as it applies to the coastal zone. The subject County provisions were written to apply both in and out of the coastal zone. The Commission is aware that the “PR” zone district is used outside of the coastal zone to designate some publicly owned watershed lands and some privately owned lands that may be logged. The Commission notes that it does not have authority outside of the coastal zone. Therefore, the County could choose to either allow timber harvesting to be permitted or not on “PR” lands outside of the coastal zone under the suggested modification.

If the land use plan is modified along these lines, according to Modifications A-1 and B-1, then the amendment can be approved because the land use plan as amended will be consistent with the Coastal Act.

## **b. Implementation Amendment**

### **(1.) Description and Background**

The certified Local Coastal Program implementation plan explicitly allows some type of timber harvesting in the following zoning districts: “TP Timber Production”, “PR, Parks, Recreation, and Open Space,” and “SU Special Use” zoning districts. Harvesting is an allowed interim use of a mining site in the M-1, M-2, and M-3 Industrial zone districts. Small-scale timber harvesting is an allowed use in the “RA” (Residential Agriculture), and “RR” (Rural Residential) districts.

As discussed above, the proposed land use plan amendment would limit timber harvesting to the TP, PR, and M-3 zoning districts. In parallel to this change, the proposed amendment to the zoning ordinance would delete entries that currently allow timber harvesting in the “Rural Residential (RR),” “Residential Agriculture (RA),” “M-1” and “M-2” Industrial, and “Special Use (SU)” zone districts. It would also specify that timber harvesting is not allowed in the Agricultural (“CA,” “AP,” and “A”), Commercial



("PA," "VA," "CT," "C-1," "C-2," "C-4"), and Public and Community Facilities zone districts. The *County Code* sections affected are 13.10.312; 13.10.322; 13.10.332; 13.10.342; 13.10.352; 13.10.362; 13.10.372; 13.10.382; new 13.10.695a (see Attachment 1). [As explained below, the only substantive change from the current zoning provisions is that timber harvesting will no longer be allowed in the "Special Use" district.]

Zoning districts are shown on the zoning map. A substantial portion of the mapped timber resource areas are zoned "Timber Production" (20,697 out of 21,355 acres or 97% in the coastal zone). Properties with timber resources on them are also zoned a variety of other districts, including "SU," "CA," and "RA" (see second column of table).

The zoning map may also be amended. For each land use plan designation, overlay, and mapped resource, there are one or more appropriate zoning districts. Section 13.10.170(d) of the *County Code* provides that "Timber Production" zoning is a consistent implementing zoning district for property designated in the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* as "Agriculture," "Public/Institutional Facilities," "Mountain Residential," "Parks, Recreation, and Open Space," "Resource Conservation," as well as Agricultural and Timber Resource lands (see third column of table). Under this provision a rezoning to timber harvest in any of these designations does not constitute a local coastal program amendment, as the Coastal Commission had certified this provision stating that "Timber Production" is appropriate zoning for these designations.

"PR" (which also allows timber harvesting) is a consistent implementing zoning district for property designated in the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* as "Agriculture," "Mountain Residential," "Rural Residential," "Parks, Recreation, and Open Space," and "Resource Conservation," as well as Agricultural Resource lands (see third column of table). M-3 (which also allows timber harvesting) is a consistent zoning district for property with a Quarry overlay symbol on the land use plan map. "SU" (which also allows timber harvesting) is a consistent zoning district anywhere.

The proposed amendment will now explicitly limit where timber harvesting can occur to the three noted zoning districts: "TP," "PR," "M-3." The amendment does not alter the permissibility of timber harvesting in the "M-3 Mineral Extraction Industrial District" (as an interim use of a mining site), the "Parks, Recreation and Open Space (PR)" district, and the "TP" zone district. What the amendment will mean is that timber harvesting can not occur on timber land in one of the other districts, absent a rezoning. The rezoning would not constitute a local coastal program amendment if the rezoning involved any of the land use designations noted in the previous paragraph, which it almost certainly would.

The proposed amendment explicitly prohibits timber harvesting in Agricultural, Commercial, and Public and Community Facilities zone districts. The current zoning district regulations do not show timber harvesting as permitted uses in those districts.

Under traditional planning rules and County policy, if a use is not listed as an allowable land use in a particular zone district, then it is already prohibited. Thus, this aspect of the amendment is also a reiteration of existing policy.

The proposed amendment deletes timber harvesting as an interim use of a mining site in the M-1 and M-2 Industrial zone districts. The purpose of these districts is to provide areas for light and heavy industrial facilities respectively (*Code* Section 13.10.341). Since mines would not be zoned “M-1” nor “M-2,” this is simply a “clean-up” amendment from the County’s perspective.

The proposed amendment also deletes timber harvesting in the “SU” zone district. This district is used for flexible planning of large properties, lands with a variety of physical constraints, and mixed uses (*Code* Section 13.10.381).

The proposed amendment deletes “small-scale” timber harvesting in the “RA” and “RR” zoning districts. “Small-scale” is not specifically defined, but according to County staff means “minor.” This is defined in section 16.52.030 as those harvests not requiring State approval. Thus, the County would maintain that State-approved timber harvest plans are currently not listed as permitted uses in these districts and the proposed amendment thus does not represent a change, just a reiteration. These districts are certified as appropriately implementing lands designated “Mountain Residential,” “Rural Residential,” and “Suburban Residential” in the land use plan. Additionally, “RA” is an implementing district for lands designated “Agriculture.”

With the exception of the noted change to the “RA” and “RR” districts, this amendment does not alter provisions regarding tree cutting that is not subject to a State-approved timber harvest plan.<sup>9</sup>

---

<sup>9</sup> Under the Coastal Act removal of major vegetation that is not subject to such regulation and is not for agricultural purposes or kelp harvesting needs a coastal permit. County regulations thus provide for the following categories in the coastal zone:

County notice of timber harvesting (*County Code* §16.52.035) or timber harvest permit (§16.52.037) and coastal permit (§13.20.160): tree removal for commercial purposes  
 Various other discretionary permits (would include a coastal permit or exclusion): tree removal authorized pursuant to those permits, such as tree removal needed to construct an authorized building.  
 Significant tree removal permit (excluded from coastal permit exclusion per §13.20.074): removal of significant trees not included in the above categories (defined in Section 16.34.030)  
 Exempt: removal of orchard trees (§16.52.031), removal of tree crops pursuant to an agricultural operation (§16.34.090), removal of trees in an emergency situation caused by hazardous of dangerous condition of the tree (§16.34.080), and non-significant trees (defined in Section 16.34.030)

Although the proposed language prohibiting timber harvesting in most zoning districts references only such harvesting requiring a State-approved timber harvest plan, there are also no entries in the individual zoning districts which mention any other types of tree cutting as permissible uses. The cited *Code* sections in the above list could be interpreted to allow tree cutting in the second, third, and fourth categories in all zoning districts. Any commercial cutting of timber that is not regulated through State-approved timber harvest plans (first category) would still be allowed in the “TP,” “PR,” and “M-3” districts under this amendment. But with the proposed deletion of “small-scale” timber harvesting from being

## (2.) Standard of Review

The standard of review for these amendments is the land use plan. Most relevant are new policy 5.12.14 and policy 5.12.9, as modified above. Among other relevant provisions are Objective 5.12:

Encourage the orderly economic production of forest products on a sustained yield basis under high environmental standards, to protect the scenic and ecological values of forested areas, and to allow orderly timber production consistent with the least possible environmental impacts.

and policy 5.1.3, "Protection of Public Vistas":

Protect significant public vistas ...from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character caused by timber harvests.."

Furthermore, the provisions describing the purposes and uses of each land use designation, as discussed above, govern.

## (3.) Analysis

This amendment is written to carry out the directive of the proposed new land use plan policy. The lists of permitted uses in each zoning district comply with this policy as submitted. However, since the new land use plan policy must be modified to delete timber harvesting as a permitted use in the PR zoning district, the proposed amendment is now inconsistent with this provision and must be denied. As well, there is nothing in the purpose section of the "PR" zoning district that suggests that timber harvesting should be a permitted use.

**"SU" - Special Use Zoning:** With regard to the "SU" district, deletion of timber harvest as a permitted use is consistent with the land use plan. The land use plan does not discuss "SU" districts, they are an expedient found in the zoning ordinance. The way the certified zoning is framed, any parcel can be rezoned to "SU" without being considered a local coastal program amendment. This means that anyone who wanted to log anywhere could ask for a rezoning to "SU" and then have the right to log. This defeats the purpose of policy 5.12.9, as modified. Furthermore, the intent of the land use plan policies and their proposed modifications is for timberland that is found acceptable to be logged to be primarily used for that purpose. The "SU" district allows mixed uses and all uses. Applying it to timberlands implies that mixing timber harvesting with other uses is appropriate and/or logging and then establishing other

---

allowed in the "RA" and "RR" zoning districts, there would be no explicit allowances for such timber removal in any other zoning districts.

uses is appropriate. These contravene the land use plan policy direction as well. Instead, it is the intent of the land use plan and the proposed amendment that timberlands to be harvested should be zoned "TP," where the priority use is timber harvest. Any appropriate lands now zoned "SU" can be rezoned to "TP."

A concern has been raised about currently "SU" zoned land that has timber resources. A review of the zoning maps reveals that there are approximately 290 acres of mapped timber resource land in the coastal zone that is so zoned "SU" and thus will no longer be able to be logged. Most of these are designated on the land use plan as "Mountain Residential." There is nothing in the "Mountain Residential" designation's description that favors timber harvesting; the designation is to apply to areas suitable for very low density residential uses. Thus, by requiring such properties to undergo rezoning in order to allow timber harvesting in the future, which will be the effect of this amendment their suitability for timber harvesting in the context of all the operative land use plan policies can be evaluated.

**"TP" Zoning:** A further question is whether the amendment conflicts with any other existing land use plan policies. The amendment does not change the currently certified provision that timber harvesting is an allowed use in the "TP" zoning district. That is the zoning district that gives precedence to timber harvesting (although it allows other compatible uses as well). That is the only zoning district specifically mentioned in the land use plan as being appropriate for timber harvesting.

**Rezoning to "TP without LCP Amendment:** As noted in the above findings, the implementation plan has been certified to allow rezonings to "TP" without being considered local coastal program amendments subject to Coastal Commission review. This procedure is no longer fully consistent with the land use plan as will be amended with modifications. As noted policy 7.1.3's list of permitted uses in the "Parks, Recreation, and Open Space" designation says nothing to suggest that timber harvesting is an appropriate use. The same goes for policy 5.11.5 regarding the "Resource Conservation" designation. Therefore, the non-reviewable rezoning provision to "TP" for those designations is inconsistent with the land use plan. Furthermore, the non-reviewable rezoning to "TP" in the other four land use plan designations and the two mapped resource areas is inconsistent with policy 5.12.9, as modified. To implement that policy may require some of these lands to stay in their current zoning category rather than be rezoned to "TP."

Section 13.10.3759(c) of the *County Code* contains the criteria for approving a rezoning to "TP." These follow and reference the provisions of state timber law (e.g., meet timber stocking standards). They do not reference any other *1994 General Plan and Local Coastal Program for the County of Santa Cruz* policies. Thus, they carry the implication that any land that meets the technical definitions for timberland should be rezoned to "TP." This reading is inconsistent with policy 5.12.9, as modified.

**Rezoning to "M-3:"** The implementation plan also has a provision allowing rezoning of "Q Quarry" designated land to the "M-3" zone without being considered as a local

coastal program amendment. As noted, the "M-3" zone allows timber harvesting. There are mapped "Mineral Resource" areas that also have timber resources. The "Q" designation is just a symbol on the land use map; thus its extent, and the extent of the area that can be rezoned to "M-3" is unclear. Since there could be a rezoning to "M-3" (which would allow for timber harvesting) encompassing sensitive forests, there could be a conflict with policy 5.12.9, as modified.

**Non-“TP” Zoning:** A concern with this amendment involves the current zoning maps. Information included in the County submittal indicates that 21% of timber harvests countywide (both in and out of the coastal zone) took place in the Special Use, Commercial Agriculture, or Agriculture zones; zones where timber harvesting would no longer be permitted. The “SU” district has been discussed above. The agricultural districts currently do not explicitly allow timber harvesting; thus, even without this amendment future harvests in these zones would not occur. In the coastal zone there is some mapped timberland that is mostly designated “Agriculture” on the land use plan and zoned “Commercial Agriculture”. This district allows various agricultural and agricultural support uses along with limited residential and other uses. An argument has been raised that timber harvesting is an agricultural use. While some state law supports such a definition, that is not part of the County’s definition.

In addition to these officially-mapped timber resource lands a representative of Big Creek Lumber has submitted a map showing over 7,500 acres in the coastal zone of timber land in the Rural Residential, Special Use, Commercial Agriculture, or Agriculture zone districts. These additional acres are not mapped as timber resource lands. They would have to be carefully reviewed to determine if they all hold commercial timber stands. However, given the age of the previous mapping (over 25 years ago) and a sample examination of aerial photographs, the representative’s map has some validity. On the other hand, a review of aerial photography has shown that not all of this 7,500 acres is timberland.

Different perspectives can be taken with regard to this information. Some citizens expressed concern with the site-specific effect of this amendment and the fact that the County did not perform such an analysis. An approach to address their concerns would be a parcel-specific review to determine if other uses allowed would be consistent with the land use plan. If no such uses were found, then if the proposed amendment were to go forward it should be accompanied by a site-specific rezoning. For example, there is a parcel designated “Agriculture” and zoned “CA Commercial Agriculture.” It contains mapped timber resources. The analysis would determine if not allowing timber harvesting would be in conflict with land use plan provisions and if any of the other permitted uses allowed in the zoning district would be feasible and consistent with land use plan provisions.

However, this type of analysis is not necessary in order for the Commission to approve the remaining aspects of the proposed amendment. As long as logging remains permitted in the “TP” zoning district, then the supportive land use policies can be carried out. This is made clear by the fact that there is the possibility that a rezoning to that

district could always be requested if an owner of a parcel not already so zoned wanted to log. Furthermore, each affected parcel still retains its certified zoning district. This zoning has been found consistent with the land use designation. Each mentioned district contains a variety of permitted uses. There thus would be some use (other than timber harvesting) that could be made of each property that would be consistent with the certified land use plan and hence not result in a “taking.” There do appear to be approximately eight parcels that are zoned “CA” or “A” in the coastal zone that are mostly forested according to the map provided by Big Creek Lumber’s representative (they are not mapped by the County as timber resource). Since most of the permitted uses involve open lands, these parcels would be most restricted under the amendment. They would be prime candidates for a rezoning to “TP.” This would be preferable to modifying the proposed amendment to include timber harvesting as a permitted use on agriculturally-zoned land. Although it can be argued that only such land with timber could be logged, theoretically there could be some incentive to convert productive fields to timber plantations. Also, there could be incentive to log those timbered portions of productive fields that currently provide habitat, buffers, or scenic amenities. Finally, ancillary timber activities could potentially be allowed (e.g., grading for landings or haul roads) that would adversely affect farming operations.

#### **(4.) Remedies**

The zoning provisions need to be made consistent with the land use plan provisions. Timber harvesting needs to be deleted as a permitted use in the “PR” zone district at least as far as the coastal zone is concerned, as shown in Suggested Modification B-3. To ensure that timber harvesting does not become permitted in Parks and Resource Conservation designations through future amendments, Section 13.10.170d of the *County Code* must be revised to remove the non-reviewable rezoning, as shown in Suggested Modification B-2. To ensure that other rezonings are consistent with policy 5.12.9, as amended, they need to be subject to Coastal Commission review, pursuant to the Coastal Act, as shown in Suggested Modification B-2 and they need to be considered in light of policy 5.12.9’s criteria, as showing in Suggested Modification A-2. The proposed amendment can then be approved because the implementation plan as amended and so modified will be consistent with the land use plan.

The following table shows what the results of the suggested modifications to the land use plan and zoning would be. The first column shows the six land use designations on the land use plan map in the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* that have mapped timber resources. The second column shows all the zoning districts corresponding to each land use designation that have mapped timber resources. For example, all timber resource land in the “Resource Conservation” land use designation in the *General Plan* is zoned “TP,” while properties with timber resources in the “Rural Residential” land use designation in the *General Plan* are zoned five different ways. The third column shows all possible zoning districts that the *County Code* allows for the respectively land use plan map designation. The strikeouts represent suggested modifications. The fourth column shows whether timber

harvesting is an allowed use in each of the zoning districts, as proposed in the County submittal. Again, the strike-outs and underlines represent suggested modifications.

<b>Land Use Designations w/ Timber Resources</b>	<b>Existing Zoning with Timber Resources</b>	<b>Acceptable Zoning Districts for Land Use Designations</b>	<b>Is Timbering an allowable use? (Proposed and as modified)</b>
Parks, Recreation, & Open Space	PR Parks, Recreation, & Open Space SU Special Use TP Timber Production	PR Parks, Recreation, & Open Space SU Special Use <del>TP Timber Production</del> PF Public Facilities	<u>Not OK in coastal zone</u> <del>OK</del> Not OK <del>OK</del> Not OK
Mountain Residential	RR Rural Residential TP Timber Production SU Special Use	RR Rural Residential TP Timber Production** SU Special Use  RA Rural Agriculture A Agriculture	Not OK OK  Not OK Not OK Not OK
Agriculture	CA Commercial Agriculture TP Timber Production	CA Commercial Agriculture TP Timber Production**	Not OK OK
		A Agriculture RA Residential Agriculture SU Special Use	Not OK Not OK Not OK
Resource Conservation	TP Timber Production	<del>TP Timber Production</del>	<del>OK</del>
		PR Parks, Recreation, & Open Space PF Public Facilities A Agriculture CA Commercial Agriculture SU Special Use	<u>Not OK in coastal zone</u> <del>OK</del> Not OK Not OK Not OK Not OK

Land Use Designations w/ Timber Resources	Existing Zoning with Timber Resources	Acceptable Zoning Districts for Land Use Designations	Is Timbering an allowable use? (Proposed and as modified)
Public Facility	SU Special Use *CA Commercial Agriculture	SU Special Use CA Commercial Agriculture	Not OK Not OK
		PF Public Facilities A Agriculture TP Timber Production**	Not OK  Not OK OK
Rural Residential	RR Rural Residential RA Residential Agriculture SU Special Use TP Timber Production A Agriculture	RR Rural Residential RA Residential Agriculture SU Special Use TP Timber Production** A Agriculture	Not OK  Not OK Not OK OK  Not OK

\*\* = Any further rezonings to "TP Timber Production" would have to be on timberland that is not recreational, environmentally sensitive, highly scenic, or susceptible to hazards that can be exacerbated by logging, subject to Coastal Commission review through the local coastal program amendment process.

## ***2. Helicopter Timber Harvesting***

### **a. Description of Amendment**

This proposed amendment proposes a new section (13.10.378) of the *County Code* to allow timber harvesting by helicopter only in the "TP" zone district, pursuant to three criteria. The first criteria is that any appurtenant helicopter service and log landing areas must be sited within the Timber Harvest Plan boundaries on properties which are zoned for timber harvesting. This provision appears to just restate that timber harvest is allowed only in areas so zoned. That is because such appurtenant helicopter operational facilities would be included on the Timber Harvest Plan as approved by the State.

The second criteria is that helicopter flights for log transport between the area where the felling is occurring and the landing must occur only over property contained within the approved THP. This appears to mean that if there was a non-contiguous timber harvest area (e.g., a property intersected between where the logs were being felled and where they were being transported to by helicopter), then helicopter transport would not be allowed.

The third criteria is that no helicopter flight may occur within 1000 feet horizontally of an inhabited residence.



The purpose of this amendment is to reduce noise impacts from helicopters on residences near logging operations and to help promote safety.

#### **b. Standard of Review**

The following *1994 General Plan* provisions are most applicable:

**3.19.1** - which prohibits the use of helicopters for any use other than emergency law enforcement, emergency medical or commercial agricultural purposes; the County does not define logging operations as an agricultural use; therefore, logging would not fall under the exceptions in this policy

**6.9.1** - which deals with the compatibility of land uses with respect to noise.

However, these provisions are not part of the certified local coastal program. Also germane are the various policies to control erosion listed under Objective 6.3 and the various habitat protection policies listed under Objective 5.1.

#### **c. Analysis**

The proposed regulation may not adequately carry out the land use plan. There may be occasions where helicopter transport would be the environmentally preferred method of hauling cut logs from the harvest site. This would be particularly true, for example, in a sensitive watershed where the only alternative would involve soil-destructive yarding and hauling methods (e.g., by truck or tractor on a particular site that would require grading for landings or new road construction).

Because neither the Coastal Commission nor any local cities or counties have permitting authority over commercial timber harvesting operations subject to the Forest Practice Act, the proposed amendment's limitation on helicopter operations is clearly beyond the purview of the County to enforce anyway. As defined in the Forest Practices Act, "timber operations" includes "removal...of timber" and "haul routes and schedules" (PRC Sections 4516.5(a) and 4527). Regulation of how timber is removed is thus pre-empted by the Board of Forestry, and local jurisdictions may not regulate this aspect of timber harvesting (PRC Section 4527), nor may the Coastal Commission. Additionally, the FAA would preempt local government vis-a-vis helicopter altitudes over residences.

In conclusion, since the proposed amendment is not only problematic from a resource protection standpoint, but involves regulatory authority that the Commission has no authority to delegate, it must, therefore, be denied.

#### **d. Remedies**

The proposed wording needs to be qualified in two ways in order to be legally sound. First, it can not dictate the method of timber removal. Thus, the reference to not allowing

helicopter logging where logging is permitted must be deleted. Second, helicopter flight regulations can not be dictated and such references must be deleted. This can be accomplished in one of two ways, either (1) by simply deleting the proposed new section 13.10.378 and the references to it or (2) by placing qualifying language that is consistent with the County's authority. Under this second option, the provision would be written with flexibility so that recommendations against helicopter logging would not be automatic, but would be based on resource protection considerations. As so modified, according to Suggested Modification C, the proposed amendment is consistent with the land use plan and can be approved.

The Commission notes that it does not have authority outside of the coastal zone. The subject County provisions were written to apply both in and out of the coastal zone. The County could choose to develop regulations on this subject that apply exclusively outside of the coastal zone and put them into effect without Commission review.

### ***3. Riparian Corridor, Residential Buffer, and Landslide Limitations***

#### **a. Description of Amendment**

This proposed amendment would add a new *County Code* section (13.10.695b, c). This would prohibit logging in the PR and M-3 districts within 300 feet of a residence not zoned "TP" or within active or recent landslide areas. It would also prohibit all timber harvesting within 50 feet of the banks of perennial streams and 30 feet from the banks of intermittent streams.

Also, Section 16.30.050 in the Riparian Corridor chapter would be correspondingly amended to no longer allow activities done pursuant to a valid County timber harvest permit to be exempt from the Riparian Corridor standards. A County timber harvest permit would only apply to those infrequent cases where timber harvest is exempt from State review (e.g., for non-commercial logging). The riparian corridor standards prohibit development in defined riparian corridors, unless an exception is granted. The defined riparian corridor would in some cases be wider than the proposed 50 foot buffer prohibition of Section 13.10.695 (e.g., it covers the entire width of riparian vegetation and a 100 wetland buffer). If there were a logging proposal within the riparian corridor beyond the prohibition area, that fell under the County's jurisdiction to regulate, then it would have to meet the tests of the exception provisions (Section 16.30.060) in order to be approved.

#### **b. Standard of Review**

Several *1994 General Plan and Local Coastal Program for the County of Santa Cruz* policies address **riparian corridors**.

Objective 5.1 is:

to maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.

The Local Coastal Program has provisions requiring protection of riparian areas and wetlands; which are defined as environmentally sensitive habitats (under policies 5.1.2 and 5.1.3). They must be delineated and biotic reports must be prepared. Sensitive habitat provisions include:

- Policy 5.1.3 allows only uses dependent on resources in these habitats unless:
  - ⇒ other uses are consistent with habitat protection policies and beneficial to the public;
  - ⇒ the project approval is legally necessary to allow a reasonable economic use of the land;
  - ⇒ any adverse environmental impact will be completely mitigated; and
  - ⇒ there is no feasible less-damaging alternative.
- Policy 5.1.4 requires complying with the Sensitive Habitat Protection ordinance (Chapter 16.32 of the *County Code*).
- Policy 5.1.6 states in part,

Sensitive habitats shall be protected against any significant disruption of habitat values; and any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Reduce in scale, redesign, or, if no alternative exists, deny any project which cannot sufficiently mitigate significant adverse impacts on sensitive habitats...

The following 1994 *General Plan and Local Coastal Program for the County of Santa Cruz* provisions specifically address riparian corridors and wetlands:

- Objective 5.2 is “to preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters.”
- Objective 5.7 is “to protect and enhance surface water quality in the County’s streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses.”

- Policy 5.2.2 specifies adherence to the Riparian Corridor and Wetland Protection ordinance (Chapter 16.30 of the *County Code*), to ensure no net loss of riparian corridors and riparian wetlands.
- Policy 5.2.3 states that “development activities, land alteration and vegetation disturbance within riparian corridors and wetland required buffers shall be prohibited unless an exception is granted per the Riparian Corridor and Wetlands Protection ordinance.”

The County, in such cases, is required to make Riparian Exception findings of:

- ⇒ special circumstances affecting the property,
- ⇒ necessity for proper function of an existing or permitted activity;
- ⇒ not being injurious to downstream or other nearby property;
- ⇒ not reducing nor adversely impacting the riparian corridor;
- ⇒ there being no less environmentally damaging alternative;
- ⇒ and meeting local coastal program objectives (*County Code* Section 16.30.060).

- Policy 5.2.7 states, “Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities...”

With regard to **residential buffers**, *1994 General Plan and Local Coastal Program for the County of Santa Cruz* policy 8.5.2 is applicable:

Ensure the compatibility of commercial and industrial uses with adjacent uses...

With regard to **landslides** the following *1994 General Plan and Local Coastal Program for the County of Santa Cruz* provisions are applicable:

- Objective 6.2 - this objective seeks to minimize the hazards and property damage caused by proposed activities in areas of unstable slopes.
- 6.2.6 – this policy requires building sites to be located away from potentially unstable slopes.

The only policy to specifically mention **landslides** addresses only land divisions (6.2.5 – “exclude land with...recent or active landslides from density calculations for land divisions”), but by implication demonstrates the County’s concerns with disruptive activities in such areas.

### c. Analysis

The subject criteria for riparian and residential setbacks are locational and objectively verifiable. There is ample basis in the cited land use plan policies for a **riparian**

**setback.** Although some of the cited policies allow for disruption that can be mitigated, there are overriding specific policies that call for the preservation of the integrity of the riparian habitat. The proposed logging prohibition area matches the definition of “Riparian Corridor” in the current *County Code* section 16.30.040. By prohibiting commercial tree-cutting, the integrity of this defined corridor is preserved. Conversely, allowing commercial tree-cutting clearly impacts the riparian corridor.<sup>10</sup> However, the text can be read to prohibit all tree cutting. The first subsection of the new proposed Section 13.10.695 refers to “timber harvesting requiring approval of a Timber Harvesting Plan by the California Department of Forestry,” (i.e., commercial cutting) but the second (b) and third (c) subsections which address riparian setbacks do not also contain this qualifier. Since there is a definition of commercial timber harvest in the County Code, the lack of such a qualifier could imply that this proposed section applies to all tree cutting. This provision thus must be denied as being inconsistent with the land use plan because there may be some instances (e.g., for fire suppression, habitat restoration, disease prevention) that non-commercial harvesting is necessary to preserve the integrity of the riparian corridor.

There is less direct, but still ample basis in the land use plan for the proposed **residential setback** and no policy conflicts would result. Under the Timber Productivity Act, it is permissible for counties to require such setbacks, as affirmed in *Big Creek Lumber Company v. County of San Mateo* (1995). Actually a review of the timber resource and zoning maps indicates that this provision is unlikely to be applicable in the coastal zone at this time as there is no “PR” or “M-3” land with a timber resource designation on it. There is some “PR” zoned land that is outside of Big Basin State Park that may have timber resources on it (according to a map provided by a representative of Big Creek Lumber), but it is almost all adjacent to “TP” land, where the buffer does not apply.

The proposed County prohibition against timber operations on some active or recent **landslides** does not appear to have a basis in the land use plan. There are no land use plan policies that address development on landslides specifically, rather the topic is encompassed in general geologic safety policies. These policies are generally written to be implemented on a project-specific basis after geotechnical evaluation. There is nothing in the land use plan or other zoning provisions to suggest a certain category of development is prohibited on landslide areas. To the contrary there is some logical testimony in the record that some logging of landslide areas may be desirable to relieve the gravitational burden on them. The objectives of the land use plan policies can be met through specific mitigation measures. Furthermore, the policy only applies to landslide areas in non-TP zones where logging is allowed (i.e., “PR” and “M-3”) with no rationale given or apparent. As modified above, the prohibition will then only apply to M-3 zones, which are limited to mines, which by their nature involve substantial earth-moving.

---

<sup>10</sup> The *Code* definition additionally includes a 100 foot buffer around water bodies. A review of the location of coastal wetlands in northern Santa Cruz County reveals no mapped timber resources in close proximity, therefore obviating the need for the proposed prohibition to extend to wetland buffers, as was requested by testimony in the local hearings

Additionally, this proposal is problematic because it does not contain an objective locational criterion. As written, it appears that County staff would have to interpret their geologic hazard maps and a registered geologist's report and make a determination as to whether the proposed timber operation would be located in a prohibited area. This edges into regulation because it could be argued that discretion is involved in such a determination.

In conclusion, this provision is not consistent with the land use plan and is of dubious legal authority of the Commission to regulate and, hence, must be denied.

#### **d. Remedies**

##### **(1.) Riparian**

The noted deficiency with regard to riparian setbacks can be remedied by clarifying that the timber harvesting restriction applies to commercial harvesting. With such a clarification, there is assurance that the integrity of the riparian corridor is preserved, as the land use plan requires. Any non-commercial harvesting is subject to local regulation, in this case primarily the riparian corridor protection ordinance (Chapter 16.30 of the *County Code*). As noted, the proposed amendment removes an outdated exemption from this chapter, thus ensuring that any timber cutting that is under the County's purview is not exempted from following the provisions of this section. These provisions generally prevent tree cutting within the riparian corridor, but do allow exceptions. Thus, were it necessary to allow some tree cutting, such approval could be granted.

Given the land use plan policy basis to preserve the integrity of the riparian corridor, there is no need to consider whether some commercial logging in the corridor could be done in an environmentally sound manner and/or have environmental benefits. Nevertheless, the Commission is appreciative of testimony that commercial timber harvesting may be environmentally desirable in the proposed riparian prohibition area for habitat improvement reasons; and hence the implication that the proposed restriction is contrary to County habitat protection policies. Specifically, assertions were presented to the Commission supporting cutting riparian forest because:

- of the need to protect plant systems by allowing selective harvesting of diseased Monterey pine;
- of the need to harvest to prevent forest fires;
- of the need to prevent drying up creeks which unchecked forest growth causes;
- if not harvested, trees will fall into streams causing log jams and resultant erosion;
- not harvesting will lead to a significant decrease in diversity and number of plant and animal species which occupy the forest.
- if some trees are not cut, forest will be unhealthy with stunted growth and shade and woody material will be unavailable for fish habitat;

- cable yarding will not be allowed leading to more destructive tractor yarding which generates more sediment.

The literature, common understandings, and what the proposals actually do reveal such arguments are not compelling.

Regarding Monterey pine, they are not typically associated with the immediate riparian corridor. As modified, the exception provisions to allow harvesting diseased and dying trees are available.

Regarding forest fires, harvesting will not prevent them. In fact, "fire suppression during this century in combination with logging and grazing has created forests with much greater density of vegetation than in the past. The dense vegetation also increases the opportunity for intense conflagrations."<sup>11</sup> "Wildfires often burn less intensely in riparian areas than in upland areas because of the generally moist conditions near streams. Riparian areas may serve as effective barriers to the spread of low severity fires across the landscape." Of course, riparian areas can burn and result in some adverse conditions, including increased sediment yields and decreased aquatic species diversity. Yet, "fire is another disturbance factor that contributes to the diverse mosaic of riparian vegetation." Thus, even if somehow the burning (or more intense burning) of a riparian corridor could be attributed to the fact that no logging had been allowed in it, the result is not necessarily undesirable. Furthermore, the prohibition only extends a maximum of 50 feet into the riparian corridor, the moistest area, so that opportunities remain for logging in the remainder of the corridor area. And, were fire suppression or clean-up necessary in the proposed buffer zone that involved tree removal, the exception provisions would be available.

Regarding drying up streams, transpiration to nourish the riparian trees is a natural process that has been repeated for centuries before commercial logging appeared on the scene. The cover letter to the paper submitted, "Competition for Limited Dry Season Ground-stored Water Between Forest Use and Streamflow in the Waddell Valley," says that awareness of this effect does not dictate a particular course of action since that depends on the results desired.<sup>12</sup> Indeed the paper notes that fires have the same effect as tree cutting. Furthermore, the paper addresses the entire watershed; it does not calculate the magnitude of decreased streamflow from the riparian forest alone. If it ever were determined that commercially cutting trees in the riparian corridor were necessary so that a stream would not dry up (i.e., if this were the only available method), then a subsequent amendment (including a land use plan change) could be requested. However, for example, to date, Department of Fish and Game recommendations for the restoration of the endangered coho salmon south of San Francisco Bay (i.e., in streams subject to this amendment) focus on other measures to

---

<sup>11</sup> Skinner and Chang, 1996 cited in Kattleman and Embry, "Riparian Areas and Wetlands," *Sierra Nevada Ecosystem Project: Final Report to Congress*. 1996.)

<sup>12</sup> Briggs to Coastal Commission, March 10, 1999.

preserve and enhance streamflow rather than on cutting riparian vegetation (which is recommended for preservation and restoration).

Regarding log jams, the literature actually supports retaining riparian vegetation because some trees will fall into streams. Logs in streams are valuable. "The progressive loss of large pieces of coniferous wood from streams due to continued logging of riparian zones... has led to widespread changes in channel form and to impaired habitat quality."<sup>13</sup> Current forest practice rules allow these cumulative impacts to increase in severity in part because specified buffer strip widths are too narrow to allow sufficient recruitment of large pieces of wood and because logging is allowed in buffer strips. "Partial harvest and salvage logging within [some areas where riparian buffers have been established] have reduced their ability to contribute large wood to streams."<sup>14</sup> Log jams that are detrimental for some reason can be removed; this proposal would not prevent such stream restoration.

Regarding diversity, harvesting results in a decrease of detrital inputs into streams. "Decrease of detritus will cause decreased populations of these [stream invertebrate] species."<sup>15</sup> Harvesting also results in a loss of logs in streams as discussed above. Reductions of logs in streams are associated with a decrease in large deep pools, which are a characteristic of high quality aquatic ecosystems. Attributes of habitat diversity include the variety and range of hydraulic conditions (i.e., depths and water velocities) and types and frequencies of wood.<sup>16</sup> Furthermore, timber harvesting in the riparian corridor can affect the amount of shading that the stream receives. Shading is necessary to provide for diverse aquatic habitat. Thus, the prohibition on riparian corridor tree removal should result in greater stream habitat diversity, not less.

Regarding the health of the riparian forest, logging is not necessary to maintain it. To the contrary, "maintaining the integrity of the vegetation is particularly important for riparian-dependent organisms including amphibians, arthropods, mammals, birds, and bats."<sup>17</sup> Again, riparian forests have flourished for centuries before commercial logging appeared on the scene.

Regarding cable yarding, the amendment does not prohibit its occurrence. It would prohibit additional tree removal that could be useful in installing cables. However, cables may be installed over streams where there is already a clearing or they may be

---

<sup>13</sup> Reid, "Forest Practice Rules and Cumulative Watershed Impacts in California," 1999.

<sup>14</sup> Bryant 1980 and Bisson et. al. 1987 cited in *Forest Ecosystem Management: An Ecological, Economic, and Social Assessment*, Report of the Forest Ecosystem Management Assessment Team (a coalition of federal resource agencies) 1993, p. V-13.

<sup>15</sup> Knight and Bottorff, "The Importance of Riparian Vegetation to Stream Ecosystems," in Warner and Hendrix, editors, *California Riparian Systems*, 1984.

<sup>16</sup> *Forest Ecosystem Management: An Ecological, Economic, and Social Assessment*, Report of the Forest Ecosystem Management Assessment Team 1993, p. V-22.

<sup>17</sup> *Forest Ecosystem Management: An Ecological, Economic, and Social Assessment*, Report of the Forest Ecosystem Management Assessment Team 1993, p. V-25.



installed above tree level. Also, helicopter logging is another alternative that is not precluded by this amendment (see finding above).

In contrast to these arguments for allowing riparian logging, there is other evidence of its detrimental effects. “Accelerated rates of erosion and sediment yield are a consequence of most forest management activities.”<sup>18</sup> “Timber harvesting and associated activities can alter the amount and timing of streamflow by changing onsite hydrologic processes.”<sup>19</sup> Vegetation diversity can be lost as a result of riparian logging.<sup>20</sup> Santa Cruz County has expressed concern over even selective logging of riparian corridors resulting in a young stand and a predominately hardwood stand of remaining trees, as not providing suitable conditions to maintain cojo habitat.<sup>21</sup> As part of the County hearing process, evidence was submitted of the destructive nature of commercial logging adjacent to French and Gamecock Creeks.

Correspondingly, there is extensive support in the literature for preserving riparian corridors. Some benefits are:

- • Maintenance of the aquatic food web through provision of leaves, branches, and insects
- • Maintenance of appropriate levels of predation and competition through support of appropriate riparian ecosystems
- • Maintenance of water quality through filtering of sediment, chemicals, and nutrients from upslope sources
- • Maintenance of an appropriate water temperature regime through provision of shade and regulation of air temperature and humidity
- • Maintenance of bank stability through provision of root cohesion on banks and floodplains
- • Maintenance of channel form and in-stream habitat through provision of woody debris and restriction of sediment input
- • Moderation of downstream flood peaks through temporary upstream storage of water
- • Maintenance of downstream channel form and instream habitat through maintenance of an appropriate sediment regime.<sup>22</sup>

---

<sup>18</sup> *Forest Ecosystem Management: An Ecological, Economic, and Social Assessment*, Report of the Forest Ecosystem Management Assessment Team 1993, p. V-16.

<sup>19</sup> Keppeler and Ziemer 1990 and Wright et. al. 1990 cited in *Forest Ecosystem Management: An Ecological, Economic, and Social Assessment*, Report of the Forest Ecosystem Management Assessment Team 1993, p. V-19.

<sup>20</sup> *Forest Ecosystem Management: An Ecological, Economic, and Social Assessment*, Report of the Forest Ecosystem Management Assessment Team 1993, p. V-25.

<sup>21</sup> James to Rutten, NMFS, December 10, 1998.

<sup>22</sup> National Marine Fisheries Service, *Essential Fish Habitat*, March 26, 1998, p. 192.

Given this evidence, the proposed zoning amendment, as modified according to Suggested Modification D, can be approved as being consistent with the cited land use plan policies.

## **(2.) Landslides**

The legal deficiency regarding the landslide prohibition could be remedied by including a clear, objective indication of where it applies. Unfortunately, that does not appear possible at this time. The County does have a landslide map prepared in 1975. However, the map can not be referenced for this purpose because in addition to being dated, it is of too large a scale (1:62,500) to be accurate for determining exactly where it applies, identifies some of the suspected landslide sites with non-dimensional symbols (delineations in two dimensions are needed to determine with particularity the areas it applies to), and depicts deposits rather than recent or active landslides.

Thus, at this time, in the absence of having objective locational criteria available and a justifiable policy basis, the landslide prohibition element of the proposed amendment needs to be deleted. If so modified, according to Suggested Modification D, then the amendment can be approved as being consistent with the land use plan.

The Commission notes that it does not have authority outside of the coastal zone. The subject County provisions were written to apply both in and out of the coastal zone. The County could choose to develop regulations on this subject that apply exclusively outside of the coastal zone and put them into effect without Commission review.

Furthermore, the Commission notes that the suggested modification A-1 to the Land Use Plan would provide clearer criteria for the County with regard to determining where additional "TP" zoning can occur. The County can use its rezoning authority to limit "TP" zoning and hence logging in areas it deems inappropriate, which might include some landslide locations.

## **B. ROADS: CHANGE DESIGN CRITERIA FOR ROADS**

### **1. Description of Amendment.**

This proposed amendment makes a minor change in the design standards for private roads and driveways in Section 16.20.180h of the *County Code*. These are defined only as those which serve "habitable structures or parcels". For gradients between 10 and 15% oil and screenings (a relatively unsophisticated paving method) will always be required. The current regulation requires oil and screenings only in high erosion areas. For gradients less than 10% 6 inches of drain rock or base rock is proposed to be required. The current regulation has no such requirement.

## **2. Standard of Review**

The most relevant policy of the *1994 General Plan and Local Coastal Program for the County of Santa Cruz* is:

6.5.1 Access Standards: Require all new structures...to provide an adequate road for fire protection in conformance with the following standards:...

(c) The access road surface shall be "all weather," which means a minimum of six inches of compacted aggregate base rock, Class 2 or equivalent, certified by a licensed engineer to 95 percent compaction and shall be maintained...

Other policies address erosion control and prevention of sedimentation which could adversely affect streams and other sensitive habitats.

## **3. Analysis**

The proposed amendment wording mirrors the land use plan policy wording. Although the stated purpose of the policy is fire protection, it is worthwhile as a means to prevent erosion of the exposed "dirt road" surface and consequent sedimentation. Therefore, this amendment is approved as consistent with the land use plan. It would not apply to roads used exclusively for timber production purposes, as the ordinance only address access routes to "habitable structures or parcels." To the extent that a road might be exempt from County regulation by virtue of being preempted by the Forest Practices Act or some other state or federal statute, then obviously the County could not apply this provision. However, the County could make a recommendation to the appropriate authority to follow this standard.

## **C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The County gave this set of amendments a "Negative Declaration" under CEQA, finding no adverse impacts. The Commission concurs in this finding, for the reasons discussed in these findings, and provided the suggested modifications are made. Under CEQA Guidelines Section 15050 the County's decision to prepare a Negative Declaration is binding on the Commission, as a responsible agency. The Commission notes that concerned citizens claimed an environmental impact report was necessary. However, the Commission finds that the information available is sufficient to make the necessary findings. There is nothing in the record to prove that not allowing some timber harvesting, which the amendment does, would have a significant adverse impact on the environment. If there were a case where logging was deemed an environmental benefit, then there are options, including: undertaking an alternative measure, rezoning the property in question to a zone which allows logging, or applying for a permit (if one is needed) under various County provisions to do selective tree removal that does not

fall under the State purview. A last resort would be to seek a further amendment to the local coastal program to allow the specific circumstance. This amendment does not permanently affect the environment as restricting certain logging at this time would not prevent it from occurring in the future through a subsequent amendment. As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified would have on the environment.

**SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MAJOR  
AMENDMENT NO. 3-98**

**ATTACHMENTS**

**FULL TEXT OF PROPOSED AMENDMENTS**

ZONING PORTIONS WHICH ARE NEW ARE IN BOLD

DELETIONS ARE SHOWN BY STRIKE-OUTS

**CORRESPONDENCE FOLLOWS**

NOTE: INCLUDED IN THIS PACKET IS CORRESPONDENCE RECEIVED SINCE THE LAST COMMISSION HEARING; FOR EARLIER CORRESPONDENCE PLEASE CONTACT COASTAL COMMISSION STAFF